

WETLANDS COUNCIL

MINUTES

JUNE 10, 2003

The Wetlands Council met on Tuesday, June 10, 2003 at the
Department of Environmental Services, 6 Hazen Dr., Concord, NH

Attendees:

Council Members: Brian Fowler, Thomas Chrisenton, John Cobb, Mike Dannehy, and
Glenn Normandeau
Designees: Sharon Champagne, Brent Edmonds, William Ingham Jr., Brian
Mazerski, E. William Roy and Thomas Sloan

Absentee: Camilla Lockwood

Unfilled Positions: NH Certified Wetlands Scientists Representative

The meeting was called to order by Chairman Brian Fowler at 9:05 a.m.

1. Approval of Minutes of May 27, 2003 Meeting

*A motion was made by Mr. Roy, seconded by Mr. Mazerski and
unanimously voted to accept the minutes of May 27, 2003 as presented.*

9:10 Mr. Sloan and Mr. Ingham arrived.

2. Status of Appeals

Michael Sclafani, Appeals Clerk, distributed a report and reviewed the status of
appeals with the Council members.

- a. Docket No. 02-06 WtC – Gorham Supermarket & JC Investors Appeal
This appeal is before the Coos County Superior Court. Mr. Sclafani advised that
he received a copy of a Motion to Dismiss by Attorney Crisp on behalf of J&M
Lumber, which had been filed with the court.
- b. Docket No. 02-10/11 WtC, WB#2000-02714 – Leslie Ludtke/Gordon Blakeney
Appeal
A written Decision & Order to Deny Appeal was issued on June 5, 2003.
- c. Docket No. 02-13 WtC, WB#2002-00348 – John P. and Carole Hoag et al.
Appeal
Discussion of this appeal is tabled until after Agenda Item 2.h.

- d. Docket No. 02-15 WtC - Conservation Law Foundation: WB #2000-00131
NHDOT, Troy Bypass
Attorney Head on behalf of DES filed a pre-hearing memorandum on May 28, 2003. On June 2, 2003, Attorney Irwin filed on behalf of CLF a Response to DES's and DOT's pre-hearing memoranda. The appeal hearing is scheduled for 10:00 a.m. today, June 10, 2003.
- e. Docket No. 02-16 WtC - Donald S. Thompson: WB #2002-01019
A Decision and Order to Stay was issued on May 29, 2003.
- f. Docket No. 03-02 WtC – Philip and Judith Mills: WB #2002-00922
A Decision and Order to Grant Stay was issued on May 29, 2003.
- g. Docket No. 03-04 WtC – Aqua Terrace Condominium Assn: WB #2002-00866
A pre-hearing conference is scheduled for July 8, 2003 at 8:30 a.m.
- h. Docket No. NAH 03-01 – Governor's Island Club
A pre-hearing conference is scheduled for July 8, 2003 at 10:00 a.m. Representatives from the Wetlands Bureau and from the Governor's Island Club have been invited to attend in an effort to effect a solution to ongoing sedimentation and erosion problems. If an agreement is reached between the parties, it will be brought before the Council for approval. If a resolution cannot be negotiated, the matter will go before the Council for hearing.

Return to Item 2.c.

- c. Docket No. 02-13 WtC, WB#2002-00348 – John P. and Carole Hoag *et al.*
Appeal
The following documents have been filed since the May 27, 2003 Council meeting:
 - (1) Assented-To Motion for Extension of Time by Attorney Kuster on May 28, 2003.
 - (2) Decision & Order granting Attorney Kuster's Assented-To Motion for Extension of Time on May 29, 2003.
 - (3) Response to Decision and Order by Wetlands Council on Standing Issues by Attorney Kuster on May 30, 2003.
 - (4) Motion for Reconsideration of Decision Denying Petition to Intervene by Attorney Kuster on behalf of CLF on June 2, 2003.
 - (5) Replication to Appellants' Response to Decision and Order by Wetlands Council on Standing Issues by Attorney Cooper on June 2, 2003.
 - (6) Objection to Motion for Reconsideration and Motion to Strike Appearance by CLF by Attorney Cooper on June 5. The parties have 5 days in which to respond to the motion to strike, which expires at the end of the day today. Therefore, no action can be taken on this motion at this time.

- (7) Decision & Order to deny CLF's motion for reconsideration on June 6, 2003.

The issue before the Council is Attorney Cooper's motion to deny the appellants standing. Presently more than thirty lakefront property owners have joined in the Conservation Law Foundation's appeal and are represented by CLF. The parties to the appeal were invited to today's Council meeting. Attorney Kuster, on behalf of the Conservation Law Foundation appeared, along with Mr. and Mrs. Hoag. Attorney Cooper, who represents the permittees, did not appear. Mark Harbaugh representing the Wetlands Bureau attended.

Testimony was presented by Attorney Kuster in which he alleges that the appellants would be impacted by the proposed project and therefore the appellants have standing before the Council. Issues raised by CLF include possible degradation of water quality, possible increased milfoil infestations, sedimentation problems, and aesthetic impacts.

After considerable discussion by the Councilors, the consensus was to grant the appellants standing before the Council as a group to allow a pre-hearing conference to go forward. This would afford an opportunity for the Chairman to sort through the issues raised by the Councilors, such as proximity of the appellants to the project, size of the lake, size of the project, shoreline activity, water quality, water flow, etc., and bring the results back to the Council in the form of a draft pre-hearing memorandum and order which will be subject to the Council's approval.

A motion was made by Mr. Ingham and seconded by Mr. Normandeau to grant appellants standing as a group represented by the Conservation Law Foundation in order to proceed with a pre-hearing conference and empower the Chairman to act on its behalf in establishing which of the appellants has sufficient standing to participate in a hearing before the Council. It was unanimously voted.

RECESS

A recess was called at 10:00 a.m.

RECONVENE

The meeting was reconvened at 10:10 a.m.

3. Other Business

There was no further business to come before the Council

4. Next Meeting

The next meeting will be held on June 24 at 1:00 p.m., after which, the next regularly scheduled meeting will be on September 23, 2003. If an interim meeting is required, Councilors will be so notified.

5. Adjournment

Mr. Normandeau made a motion to adjourn, seconded by Mr. Dannehy. It was unanimously voted.

The meeting adjourned at approximately 10:20 a.m.